

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

ELECTRONIC PRIVACY INFORMATION
CENTER, et al.,

Plaintiffs,

v.

U.S. OFFICE OF PERSONNEL
MANAGEMENT, et al.,

Defendants.

Civil No. 1:25-cv-255-RDA-WBP

DEFENDANTS' NOTICE REGARDING SIMILAR CASES

As indicated in their opposition to Plaintiffs' motion for a temporary restraining order (ECF No. 19 at 7 n.3), Defendants respectfully provide this update regarding the status of cases raising issues similar to those in this case.

As stated in the opposition, two courts have denied motions for temporary restraining orders with respect to USDS affiliates' access to data systems at various federal agencies. *See* Mem. Op. & Order (ECF No. 20), *Univ. of Cal. Student Ass'n v. Carter*, No. 1:25-cv-354 (D.D.C. Feb. 17, 2025) (Moss, J.); Mem. Op. & Order (ECF No. 34), *Am. Fed'n of Labor v. Dep't of Labor*, No. 1:25-cv-339 (D.D.C. Feb. 14, 2025) (Bates, J.). Defendants have become aware of a third decision denying a similar motion for a temporary restraining order against USDS, among other parties. Mem. Op. & Order (ECF No. 29), *State of New Mexico v. Musk*, No. 1:25-cv-429 (D.D.C. Feb. 18, 2025) (Chutkan, J.).

There have been no notable developments in *Alliance for Retired Americans v. Treasury*, 1:25-cv-313 (D.D.C.). The parties' consent order preserving the status quo remains in place, with

the defendants having filed today a consent motion to amend that order to replace the name of Marko Elez with his successor at Treasury. *See id.*, ECF Nos. 13, 30. Oral argument on the plaintiffs' motion for a preliminary injunction is still set for February 24.

Likewise, in *State of New York v. Treasury*, No. 1:25-cv-1144 (S.D.N.Y.), the amended temporary restraining order remains in place. *Id.*, ECF No. 28. Argument regarding a preliminary injunction was heard February 14, but no decision has issued as of the time of this notice.

Nor has a decision issued in *American Federation of Teachers v. Bessent, et al*, No. 8:25-cv-430 (D. Md.), where the court held a hearing on the plaintiffs' motion for a temporary restraining order on February 19.

In *AFL/CIO v. Office of Personnel Management*, No. 1:25-cv-1237 (S.D.N.Y.), the defendants filed an opposition to the plaintiffs' motion for a temporary restraining order on February 19, and the plaintiffs' reply is due no later than February 24. *See id.*, ECF Nos. 36, 39.* No hearing has been set on the motion as of the time of this notice.

There have been no notable developments in *Center for Taxpayer Rights v. IRS*, No. 1:25-cv-457 (D.D.C.), where the plaintiffs have not filed a motion for a temporary restraining order or preliminary injunction.

Should there be any additional, material updates between the filing of this notice and the hearing on Plaintiffs' motion tomorrow, Defendants will notify the Court at the hearing.

//

//

* Attached as Exhibit 1 is an updated Declaration of Greg Hogan filed in the *AFL/CIO* matter. This declaration was also filed last night in the *American Federation of Teachers* matter. *See* ECF No. 33-1, No. 8:25-cv-430 (D. Md. Feb. 19, 2025)

Dated: February 20, 2025

ERIK S. SIEBERT
UNITED STATES ATTORNEY

By: /s/Peter B. Baumhart
JONATHAN T. LUCIER, VSB No. 81303
Office of the United States Attorney
919 East Main Street, Suite 1900
Richmond, Virginia 23219
Tel.: (804) 819-5400
Fax: (804) 771-2316
Email: jonathan.lucier@usdoj.gov

PETER B. BAUMHART
Office of the United States Attorney
2100 Jamieson Avenue
Alexandria, Virginia 22314
Tel.: (703) 299-3738
Fax: (703) 299-3983
Email: Peter.Baumhart@usdoj.gov

Respectfully submitted,

BRETT A. SHUMATE
Principal Deputy Assistant Attorney General
Civil Division

MARCIA BERMAN
JOSEPH E. BORSON, VSB No. 85519
Assistant Directors
Federal Programs Branch

OLIVIA G. HORTON
Trial Attorney
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, NW
Washington, D.C. 20005
Tel.: (202) 305-0747
Email: olivia.g.horton@usdoj.gov

Attorneys for Defendants